

FLUOR DANIEL FERNALD, INC

GENERAL PROVISIONS FOR COMMERCIAL ITEMS

ON-SITE SUPPLEMENT

TABLE OF CONTENTS

1.0 ENVIRONMENT SAFETY AND HEALTH(FDF/GOVERNMENT-OWNED OR LEASED) (NOV 1991)	1
2.0 PRESERVATION OF INDIVIDUAL OCCUPATIONAL RADIATION EXPOSURE RECORDS (DEVIATION) (APR 1984)	1
3.0 NUCLEAR HAZARDS INDEMNITY AGREEMENT (JAN 1992)	1
4.0 REQUIRED INSURANCE (JAN 1997)	3
5.0 SAFETY	3
6.0 FDF SUBSTANCE ABUSE PROGRAM.	3
7.0 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (SEP 1992)	4
8.0 SITE ACCESS	4
9.0 INDEMNIFICATION FOR NUCLEAR SAFETY VIOLATIONS	4
10.0 RADIOLOGICAL PROTECTION PROGRAM COMPLIANCE	4

1.0 ENVIRONMENT, SAFETY AND HEALTH (FDF/GOVERNMENT-OWNED OR LEASED) (NOV 1991)

(a) The Seller shall ensure that performance of the work under this contract is conducted: (1) in a manner that is protective of the environment, safety and health (ES&H) of DOE and Fluor Daniel Fernald, Inc. (FDF) employees and the public, and (2) in compliance with all applicable environmental, safety and health requirements (including applicable permitting and reporting requirements) including federal, state, and local laws and regulations, DOE and FDF requirements including without limitation, the applicable ES&H plan. If the Seller fails to comply with said regulations or requirements, FDF may, without prejudice to any other legal or contractual rights of FDF, issue an order stopping all or any part of the work; thereafter, a start order for resumption of the work may be issued at the discretion of FDF. The Seller shall make no claim for an extension of time or for compensation or damages by reason of, or in connection with, such work stoppage, except as may be provided for elsewhere. FDF shall notify the Seller, in writing, of any noncompliance (found by FDF or designated representatives) with the provisions of the clause and the corrective action to be taken. After receipt of such notice, the Seller shall immediately take corrective action and notify FDF in writing of the corrective action plan and time frame for completion.

(b) The Seller shall submit, if required by FDF, within 30 days after the date of award of this contract, an environmental, safety

and health program management and implementation plan for review and approval. The plan shall describe the management systems to be employed to ensure that environmental, safety and health requirements are appropriately considered in all phases of contract activities. The plan shall also include provisions for an internal environmental, safety and health performance evaluation and corrective action system to provide management with a continuing assessment of the adequacy and implementation of the environmental, safety and health programs and assurance that deficiencies are corrected. The results of such evaluations shall be made available to FDF.

(c) The Seller shall include in all of its subcontracts, involving performance of work at the Fernald Environmental Management Project site, the provisions requiring subcontractors to comply with FDF's environmental, safety and health requirements and all other requirements of this clause. However, such provisions in the subcontracts shall not relieve the Seller of its obligations to assure compliance with the provisions of this clause for all aspects of the work.

(d) The Seller, if required by FDF, shall submit for approval to FDF, its policies, procedures and provisions for including appropriate environment, safety and health requirements, including reporting requirements, in subcontracts, with respect to work to be performed at a FDF or DOE -owned or -leased facility. These ES&H requirements shall be in accordance with applicable DOE/FDF regulations, directives, and other FDF or DOE requirements. The subcontract provisions shall provide that no claim shall be made for adjustment in the subcontract amount or the performance schedule, or for damages, by reason of a stop work order issued for failure to comply with ES&H regulations or requirements of FDF or DOE.

2.0 PRESERVATION OF INDIVIDUAL OCCUPATIONAL RADIATION EXPOSURE RECORDS (DEVIATION) (APR 1984)

Individual occupational radiation exposure records generated in the performance of work under this contract shall be subject to inspection by FDF and the Government and shall be preserved by the Seller until disposal is authorized by FDF or at the option of the Seller delivered to FDF upon completion or termination of the contract. The Seller shall include appropriate provisions in subcontracts to implement this requirement.

3.0 NUCLEAR HAZARDS INDEMNITY AGREEMENT (JAN 1992)

(a) Authority. This clause is incorporated into this contract pursuant to the authority contained in subsection 170d. of the Atomic Energy Act of 1954, as amended (hereinafter called the Act.).

(b) Definitions. The definitions set out in the Act shall apply to this clause.

(c) Financial protection. Except as hereafter permitted or required in writing by FDF, the Seller will not be required to provide or maintain, and will not provide or maintain at FDF expense, any form of financial protection to cover public liability, as described in paragraph

(d)(2) below. FDF may, however, at any time require in writing that the Seller provide and maintain financial protection of such a type and in such amount as FDF shall determine to be appropriate to cover such public liability, provided that the costs of such financial protection are reimbursed to the Seller by FDF.

(d) (1) Indemnification. To the extent that Seller and other persons indemnified are not compensated by any financial protection permitted or required by FDF, FDF will indemnify the Seller to the extent that FDF is indemnified by the Government, and other persons indemnified against (I) claims for public liability as described in subparagraph (d)(2) of this clause; and (ii) such legal costs of the Seller and other persons indemnified as are approved by FDF, not to exceed the amount set forth in section 170e.(1)(b) of the Act in aggregate for each nuclear incident or precautionary evacuation occurring within the United States or \$100 million in the aggregate for each nuclear incident occurring outside the United States, irrespective of the number of persons indemnified in connection with this contract.

(2) The public liability referred to in subparagraph (d)(1) of this clause is public liability as defined in the Act which (I) arises out of or in connection with the activities under this contract, including transportation; and (ii) arises out of or results from a nuclear incident or precautionary evacuation, as those terms are defined in the Act.

(e) (1) Waiver of Defenses. In the event of a nuclear incident, as defined in the Act, arising out of nuclear waste activities, as defined in the Act, the Seller, on behalf of itself and other persons indemnified, agrees to waive any issue or defense as to charitable or governmental immunity.

(2) In the event of an extraordinary-nuclear occurrence which:

(I) Arises out of, results from, or occurs in the course of the construction, possession, or operation of a production or utilization facility; or

(ii) Arises out of, results from, or occurs in the course of the transportation of source material, by-product material, or special nuclear material to or from a production or utilization facility; or

(iii) Arises out of or results from the possession operation or use by the Seller or a subcontractor of a device utilizing special nuclear material or by-product material, during the course of the contract activity; or

(iv) Arises out of, results from, or occurs in the course of nuclear waste activities, the Seller, on behalf of itself and other persons indemnified, agrees to waive:

(A) Any issue or defense as to the conduct of the claimant (including the conduct of persons through whom the claimant derives its cause of action) or fault of persons indemnified, including, but not limited to:

- a. Negligence;
- b. Contributory negligence;
- c. Assumption of risk; or
- d. Unforeseeable intervening causes, whether involving the conduct of a third person or an act of God

(B) Any issue or defense as to charitable or governmental immunity; and

(C) Any issue or defense based on any statute of limitations, if suit is instituted within 3 years from the date on which the claimant first knew, or reasonably could have known of his injury or change and the cause thereof. The waiver of any such issue or defense shall be effective regardless of whether such issue of defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. The waiver shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified.

(v) The term extraordinary nuclear occurrence means an event which FDF/DOE has determined to be an extraordinary nuclear occurrence as defined in the Act. A determination of whether or not there has been an extraordinary nuclear occurrence will be made in accordance with the procedures in 10 CFR part 840.

(vi) For the purposes of that determination, "offsite" as

that term is used in 10 CFR part 840 means away from "the contract location" which phrase means any DOE or FDF facility, installation, or site at which contractual activity under this contract is being carried on, and any Seller-owned or controlled facility, installation, or site at which the Seller is engaged in the performance of contractual activity under this contract.

(3) The waivers set forth above:

(I) Shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action;

(ii) Shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified;

(iii) Shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages;

(iv) Shall not apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant;

(v) Shall not apply to injury, to a claimant who is employed at the site of and in connection with the activity where the extraordinary nuclear occurrence takes place, if benefits therefor are either payable or required to be provided under any workmen's compensation or occupational disease law;

(vi) Shall not apply to any claim resulting from a nuclear incident occurring outside the United States;

(vii) Shall be effective only with respect to those obligations set forth in this clause and in insurance policies, contracts or other proof of financial protection; and

(viii) Shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (A) the limit of liability provisions under subsection 170e. of the Act, and (B) the terms of this agreement and the terms of insurance policies, contracts, or other proof of financial protection.

(f) Notification and Litigation of claims. The Seller shall give immediate written notice to FDF of any known action or claim filed or made against the Seller or other person indemnified for public liability as defined in paragraph (d)(2). Except as otherwise directed by FDF, the Seller shall furnish promptly to FDF, copies of all pertinent papers received by the Seller or filed with respect to such actions or claims. FDF shall have the right to, and may collaborate with, the Seller and any other person indemnified in the settlement or defense of any action or claim and shall have the right to (I) require the prior approval of FDF for the payment of any claim that FDF may be required to indemnify hereunder; and (2) appear through the Attorney General on behalf of the Seller or other person indemnified in any action brought upon any claim that FDF may be required to indemnify hereunder, take charge of such action, and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by FDF, the Seller or other person indemnified shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

(g) Continuity of FDF obligations. The obligations of FDF under this clause shall not be affected by any failure on the part of the Seller to fulfill its obligation under this contract and shall be unaffected by the death, disability, or termination of existence of the Seller, or by the completion, termination or expiration of this contract.

(h) Effect of other clauses. The provisions of this clause shall not be limited in any way by, and shall be interpreted without reference to, any other clause of this contract, including the clause entitled "Disputes," provided, however, that this clause shall be subject to the clauses entitled Covenant Against Contingent Fees, Officials Not to Benefit, and Examination of Records by the Comptroller General, and any provisions that are later added to this contract as required by applicable Federal law, including statutes,

executive orders and regulations, to be included in Nuclear Hazards Indemnity Agreements.

(I) Civil penalties. The Seller and its subcontractors who are indemnified under the provisions of this clause are subject to civil penalties, pursuant to 234A of the Act, for violations of applicable FDF and DOE nuclear-safety related rules, regulations, or orders.

(j) Criminal penalties. Any individual director, officer, or employee of the Seller or of its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to criminal penalties, pursuant to 223(c) of the Act, for knowing and willful violation of the Atomic Energy Act of 1954, as amended, and applicable FDF and DOE nuclear safety-related rules, regulations or orders which violation results in, or, if undetected, would have resulted in a nuclear incident.

(k) Inclusion in subcontracts. The Seller shall insert this clause in any subcontract which may involve the risk of public liability, as that term is defined in the Act and further described in paragraph (d)(2) above. However, this clause shall not be included in subcontracts in which the subcontractor is subject to Nuclear Regulatory Commission (NRC) financial protection requirements under section 170b. of the Act or NRC agreements of indemnification under section 170c. or k. of the Act for the activities under the subcontract.

(l) To the extent that the Seller is compensated by any financial protection, or is indemnified pursuant to this clause, or is effectively relieved of public liability by an order or orders limiting same, pursuant to 170e of the Act, the provisions of the clause providing general authority indemnity shall not apply.

4.0 REQUIRED INSURANCE (JAN 1997)

(a) It is understood that as a part of its normal course of business, the Seller maintains the following kinds of insurance. The Seller shall not cancel or incorporate further restrictive language in any policy required by this clause without first providing thirty (30) days prior written notice to FDF. The Seller shall, prior to commencement of any work at Fernald Environmental Management Project (FEMP) under this contract, submit its Certificate of Insurance to FDF, showing coverage for the following types and amounts.

(1) Commercial General Liability. Bodily injury and property damage liability insurance coverage written on the comprehensive form of policy of at least \$1,000,000 per occurrence. The policy shall be endorsed to name FDF, its parent, affiliates, subsidiaries, and their officers, directors, employees, agents, and the Government as additional insureds.

(2) Automobile Liability. Comprehensive coverage shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the work under the contract. Coverage is required for automobiles of at least \$1,000,000 single limit of liability per occurrence. The policy shall be endorsed to name FDF, its parent, affiliates, subsidiaries, and their officers, directors, employees, agents and the Government as additional insureds.

(b) Seller agrees to comply (and require its Subcontractors to comply) with all applicable laws, rules, and regulations with respect to Workers/Workmen's Compensation or occupational disease, or withholding and payment of Social Security and Federal Income Taxes. The Seller further agrees to indemnify FDF, its parent, affiliates, subsidiaries, and their officers, directors, employees, agents and Government against, and to save and hold harmless FDF, its parent, affiliates, subsidiaries, and their officers, directors, employees, agents and the Government from any and all liability and expense with respect to claims against FDF, its parent, affiliates, subsidiaries, and their officers, directors, employees, agents and the Government which may result from the failure or alleged failure of Seller or of any of its subcontractors to comply therewith.

(c) Seller hereby waives subrogation against and releases FDF, its parent, affiliates, subsidiaries, and their officers, directors, employees,

agents and the Government from all liability covered by Seller's insurance for losses or claims arising out of Seller's performance of this contract.

5.0 SAFETY

(a) Seller shall take necessary safety and other precautions to protect property and persons from damage, injury or illness arising out of the performance of the work under this contract. Seller shall comply strictly with local, municipal, state and federal laws, orders and regulations pertaining to health or safety which are applicable to Seller or to the work, including without limitation the Occupational Safety and Health Act of 1970 (84 U.S. Statutes 1590), as amended, and any state plans approved thereunder, and regulations thereunder, to the extent applicable, and Seller warrants the materials, equipment and facilities, whether temporary or permanent, furnished by Seller in connection with the performance of the work shall comply therewith. At all times while any of Seller's employees, agents or subcontractors are on the Government's premises, Seller shall be solely responsible for providing them with a safe place of employment, and Seller shall inspect the places where its employees, agents or subcontractors are or may be present on the Government's premises and shall promptly take action to correct conditions which are or may become an unsafe place of employment for them.

(b) Accidents, injuries and illnesses requiring medical attention other than first aid, damage to property of FDF, Government or Seller, and fires shall be orally reported to FDF at the time of the incident. Written reports, satisfactory in form and content to FDF, shall be submitted by Seller promptly after each incident.

(c) Seller shall maintain in form and content approved by FDF, jobsite accident, injury and illness statistics which shall be available for inspection by, and submitted to, FDF upon its written request.

6.0 FDF SUBSTANCE ABUSE PROGRAM

(a) The Seller will:

(1) Use its best efforts to assure that all of its workers assigned to work under this contract are drug and alcohol free;

(2) Require its workers under this contract who are permitted access to any FDF facility, to submit to FDF random urinalysis testing for the presence of drugs and to FDF random breathalyzer testing for the presence of alcohol promptly whenever Notice of Testing is given to the Seller by FDF;

(3) Remove immediately from work under this contract any worker with respect to whom the Medical Review Officer determines to have tested positive for the presence of drugs and/or alcohol;

(4) Remove immediately from work under this contract any worker who fails to present himself or herself to FDF Medical Department for drug and/or alcohol testing promptly when Notice of Testing is given by FDF to the Seller with respect to such worker, or who otherwise fails to cooperate with the FDF drug/alcohol testing program;

(5) Remove from work under this Contract any employee who, intentionally or unintentionally, whether by action or inaction, causes the urinalysis testing or the breathalyzer testing of any employee to be frustrated, as, for example, by miscommunicating or by failing to communicate appropriately information regarding Notice of Testing with respect to any Seller employee.

(b) A worker who has been removed, or required to be removed, from work under this contract pursuant to this clause will not be permitted to return to work under this contract except at FDF's sole discretion and upon determination by the Medical Review Officer that the worker has completed successfully an Employee Assistance Program approved by the Medical Review Officer, or that the worker is otherwise fit to perform work under this contract.

(c) Any urinalysis testing and any breathalyzer testing required under this contract will be conducted either by, or at the direction of, the

7.0 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (SEP 1992)

(a) Program Implementation. The Seller shall, consistent with 10 CFR Part 707, Workplace Substance Abuse Programs at DOE Sites, incorporated herein by reference with full force and effect, develop, implement, and maintain a workplace substance abuse program.

(b) Remedies. In addition to any other remedies available to FDF and the Government, the Seller's failure to comply with the requirements of 10 CFR Part 707 or to perform in a manner consistent with its approved program may render the Seller subject to: the suspension of contract payments, or, where applicable, a reduction in award fee; termination for default; and suspension or debarment.

(c) Subcontracts

(1) The Seller agrees to notify FDF reasonably in advance of, but not later than 30 days prior to, the award of any lower-tier subcontract the Seller believes may be subject to the requirements of 10 CFR Part 707.

(2) The Seller shall develop and implement a workplace substance abuse program that complies with the requirements of 10 CFR Part 707, Workplace Substance Abuse Programs at DOE Sites, as a condition for award of the contract. FDF shall periodically monitor each Seller's implementation of the program for effectiveness and compliance with 10 CFR Part 707.

(3) The Seller agrees to include, and require the inclusion of, the requirements of this clause in all subcontracts, at any tier, that are subject to the provisions of 10 CFR Part 707.

8.0 SITE ACCESS

(a) Definition: "Site", as used in this clause, means the Fernald Environmental Management Project, located at 7400 Willey Road, Fernald, OH.

(b) DOE Orders prohibit access to the site of any person having in his or her possession contraband articles. Contraband articles include any dangerous weapons, explosive or other instrument or material likely to produce substantial injury or damage to persons or property and any prohibited drug, substance of abuse or associated paraphernalia. Persons and vehicles entering the site are subject to search. Anyone found to be in possession of contraband articles will be denied access to the site.

(c) Any such denial of access will not excuse any failure to perform this contract in any way.

9.0 INDEMNIFICATION FOR NUCLEAR SAFETY VIOLATIONS

(a) Applicability. The provisions of this clause shall be applicable if the Seller's product or service is subject to DOE Nuclear Safety Requirements or could have any effect on radiological safety.

(b) The Seller assumes full responsibility and shall indemnify, save harmless, and defend FDF, its directors, officers and employees from any civil or criminal liability under Section 234A (42USC§2282a) or 223(c) (42USC§2273(c)) of the Atomic Energy Act of 1954, as amended, or the implementing regulations, arising out of the activities of the Seller, its subcontractors, suppliers, agents, employees, and their officers, or directors. The Seller's obligation to indemnify and hold harmless shall expressly include attorneys fees' and other reasonable costs of defending any action or proceeding instituted under Section 234A or 223(c) or the implementing regulations.

10.0 RADIOLOGICAL PROTECTION PROGRAM COMPLIANCE

(a) Applicability. The provisions of this clause apply to any activity carried out pursuant to this contract by the Seller, its

subcontractors, suppliers, and employees that has the potential to result in the exposure of an individual to radiation or radioactive material. The term "individuals" as used in this clause includes, without limitation, general employees, radiological workers, embryo/fetus of a declared pregnant worker, minors, and members of the public. The requirements of this clause do not apply to activities that are regulated through a license by the Nuclear Regulatory Commission or a state under an Agreement with the Nuclear Regulatory Commission (an Agreement State), including activities certified by the Nuclear Regulatory Commission under Section 1701 (42 USC§2297(f)) of the Atomic Energy Act of 1954, as amended. Other specific applicability exclusions are identified in 10 CFR§835.1(b).

(b) The Seller shall: (1) comply with all applicable requirements of Title 10, Code of Federal Regulations, Part 835, "Occupational Radiation Protection" (10 CFR Part 835), and FDF's Radiological Protection Program as set forth in FDF's "Implementation Plan and Radiological Protection Program for 10 CFR Part 835", current edition, as revised from time to time (hereinafter referred to as the "RPP"), and (2) implement, document, and maintain such programs (e.g., administrative controls, procedures, and technical work documents) as necessary to ensure compliance with FDF's RPP. The Seller's programs and associated documents are subject to review at all times by FDF.

(c) The Seller shall include the provisions of this clause, including this paragraph (c), in all lower tier subcontracts for any activity that has the potential to result in the exposure of an individual to radiation or radioactive material.